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ITALY, JAPAN, NEW ZEALAND AND SPAIN

FACT-FINDING BY THE UNITED NATIONS IN THE FIELD OF THE  
MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY\*

Preambular paragraphs

Recalling its Declaration on the Prevention and Removal of Disputes and  
Situations Which May Threaten International Peace and Security and on the Role of  
the United Nations in this Field, 1/ in particular paragraphs 12, 18 and 22 thereof,

\* The paragraphs of this revised version of the working paper correspond to  
the paragraphs of A/AC.182/L.66, as set out in the report of the Special Committee  
to the General Assembly at its forty-fifth session (Official Records of the General  
Assembly, Forty-fifth Session, Supplement No. 33 (A/45/33), para. 68), as follows:

| <u>L.66/Rev.1</u>                   | <u>L.66</u> | <u>L.66/Rev.1</u> | <u>L.66</u> |
|-------------------------------------|-------------|-------------------|-------------|
| First and third<br>preambular [new] | -           | 16<br>17          | 12<br>10    |
| 1 - 6                               | 1 - 6       | 18 - 19           | 13 - 14     |
| 7 - 10                              | 31 - 34     | 20 - 23           | 16 - 19     |
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1/ General Assembly resolution 43/56.

Recognizing that the full use and further development of the fact-finding capabilities of the United Nations could contribute to the strengthening of the role of the United Nations in the maintenance of international peace and security,

Desirous to encourage States to be aware of the possibility that competent organs of the United Nations ascertain facts in dispute of situations that are likely to threaten the maintenance of international peace and security,

## I

1. In performing its functions for the maintenance of international peace and security, the United Nations should have full knowledge of all relevant facts. To this end it should consider undertaking fact-finding activities.
2. For the purpose of the present paper, fact-finding means any activity designed to ascertain facts which the competent United Nations organs need to exercise effectively their functions in the field of the maintenance of international peace and security.
3. Fact-finding should be comprehensive, objective and impartial.
4. Whenever a situation which might threaten the maintenance of international peace and security is identified, the United Nations should consider resorting to a fact-finding mission, unless all the facts can be obtained through the use of the existing information-gathering capabilities of the Secretary-General.

## II

5. While the main purpose of fact-finding missions should be to gain objective and detailed knowledge of the facts, the competent United Nations organs, in deciding if and when to undertake such a mission, should also consider that the sending of a fact-finding mission may also signal the concern of the United Nations as a whole and contribute to building confidence. They should also take into account the need to ensure that the fact-finding mission results in defusing rather than in aggravating the situation.
6. Fact-finding missions may be undertaken by the Security Council, the General Assembly and the Secretary-General, in the context of their respective responsibilities in maintaining international peace and security in accordance with the Charter of the United Nations.
7. The Security Council should consider the possibility to undertake fact-finding to obtain the knowledge of the facts needed for discharging effectively its responsibility in the maintenance of international peace and security in accordance with the Charter.
8. The Security Council should, wherever appropriate, consider the possibility to provide for fact-finding in implementing its resolutions.

9. The General Assembly should consider the possibility to undertake fact-finding to obtain the knowledge of the facts needed for exercising effectively its functions under the Charter for the maintenance of international peace and security.
10. The General Assembly should, wherever appropriate, consider the possibility to provide for fact-finding in relation to its resolutions relevant to the maintenance of international peace and security.
11. The Secretary-General, on his own initiative or at the request of States concerned, should consider undertaking fact-finding missions when a situation exists which might threaten the maintenance of international peace and security. He may, where appropriate, bring the information obtained to the attention of the Security Council.
12. The Secretary-General should pay special attention to using the United Nations fact-finding capabilities at as early a stage as possible, in order to contribute to the prevention of disputes and situations which may threaten the maintenance of international peace and security.
13. The Secretary-General should be encouraged to prepare and update lists of experts in various fields so as to have them available at any time for fact-finding missions. He should also maintain and develop, within existing resources, capabilities for the event of emergency fact-finding missions.
14. In deciding to whom to entrust the conduct of a fact-finding mission, the Security Council and the General Assembly should give preference, in general, to the Secretary-General, who may designate a special representative or a group of experts reporting to him. Resort to an ad hoc subsidiary body of the Security Council or the General Assembly may also be considered.
15. In considering the possibility to undertake fact-finding missions, the competent United Nations organs should keep in mind the necessity of avoiding duplication of efforts.
16. The decision by the competent United Nations organ to undertake fact-finding should always contain a clear mandate and precise requirements for the report. The report should be limited to a statement of facts.
17. Any request by a State for the sending of a United Nations fact-finding mission to its territory should be given expeditious consideration.
18. The sending of a United Nations fact-finding mission to the territory of any State requires that State's prior consent, without prejudice to the obligation of Member States under Article 25 of the Charter.
19. States should be encouraged to follow a policy of admitting United Nations fact-finding missions to their territory.
20. Any request for the consent of a State to receive a fact-finding mission within its territory should be given timely consideration.

21. In the event a State refuses to admit a United Nations fact-finding mission to its territory, it should inform the sending United Nations organ without delay, indicating the reasons for its refusal, when appropriate. It should keep the possibility of admitting the fact-finding mission under active review.

22. States may at any time declare that they commit themselves to admit to their territory any United Nations fact-finding mission dispatched to assist in the maintenance of international peace and security. These States shall be given an opportunity to voice their views to the sending United Nations organ.

23. These general unilateral declarations may also be made only for certain types of fact-finding missions or for a certain time. The Secretary-General shall give adequate publicity to such declarations.

24. States should co-operate with, and give full and prompt assistance to, United Nations fact-finding missions.

25. Fact-finding missions should enjoy all freedoms and facilities needed for discharging their mandate. In particular:

(a) They should promptly be admitted in the areas to which they have been dispatched;

(b) They should have freedom of movement and, in accordance with national law, full access to such places and information as they consider relevant for the performance of their task;

(c) They should be entitled to discharge their mandate in full confidentiality without any pressure or interference;

(d) They should have the right to communicate freely with the United Nations and among themselves, and with all persons they consider relevant for the discharge of their mandate, with full guarantee that no harmful consequence will be incurred by these persons.

26. The members of fact-finding missions should enjoy the privileges and immunities specified in the Convention on the Privileges and Immunities of the United Nations.

27. Fact-finding missions shall act in strict conformity with their mandate. Without prejudice to their privileges and immunities, their members shall respect the laws and regulations of the State in the territory of which they exercise their functions.

28. Fact-finding missions should perform their task in an impartial way. Their members shall not seek or receive instructions from any Government or from any authority other than the competent United Nations organ.

29. States directly concerned by the report of a fact-finding mission should be given an opportunity, whenever appropriate, to let the sending organ know their views in respect of the facts reflected in the report.

30. Whenever fact-finding includes hearings, appropriate procedural guarantees should be provided for in the rules of procedure that may be adopted.

### III

31. The Secretary-General should survey the world-wide state of international peace and security regularly and systematically to facilitate the prevention or removal by the United Nations of situations which might threaten international peace and security. The Secretariat's capacity to provide early warning of such situations should be enhanced. Where appropriate, the Secretary-General should bring relevant information to the attention of the Security Council.

32. To this end the Secretary-General should make full use of and continue to strengthen the information-gathering capabilities of the Secretariat. In this respect, when necessary, United Nations information centres may transmit to Headquarters publicly available information related to international peace and security.

33. The Secretary-General should encourage United Nations officials outside Headquarters to bring to his early attention, whenever urgent, facts relevant to any situation which may threaten international peace and security.

### IV

34. The sending of a United Nations fact-finding mission shall be without prejudice to the use by the States concerned of inquiry or any similar procedure or of any means of peaceful settlement of disputes agreed by them.

35. Nothing in the present paper shall be construed as prejudicing in any manner the provisions of the Charter, including those contained in Article 2, paragraph 7, thereof, or the rights and duties of States, or the scope of the functions and powers of the United Nations organs under the Charter.

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